

STATE OF NEVADA

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Director



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Administrator

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State Health Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
HEALTH DIVISION


4150 Technology Way, Suite 300  
Carson City, Nevada 89706

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May 20, 2011

**MEMORANDUM**

To: Frances Barron, Chairperson  
State Board of Health

From: Richard Whitley, MS, Secretary   
State Board of Health

Re: Case #645: Stonecreek Surgery Center: Request for Variance to NAC 449.9843(2), the "Guidelines for Design and Construction of Health Care Facilities" published by the American Institute of Architects (AIA), Outpatient Surgical Facilities 3.7, Section 2.3.1.2, Class B operating rooms, paragraph (1).

**STAFF REVIEW**

NAC 449.9843(2) states, "Any new construction, remodeling or change in the use of an ambulatory surgical center must comply with the *Guidelines for Design and Construction of Hospital and Health Care Facilities*, adopted by reference pursuant to NAC 449.0105, unless the remodeling is limited to refurbishing an area within the center, including, without limitation, painting the area, replacing flooring in the area, repairing windows in the area and replacing window or wall coverings in the area."

NAC 449.0105(1)(c) states, "The State Board of Health hereby adopts by reference: (c) *Guidelines for Design and Construction of Hospital and Health Care Facilities*, in the form most recently published by the American Institute of Architects, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2." (Note: The current edition of the "*Guidelines for Design and Construction of Health Care Facilities*," sponsored by American Institute of Architects (abbreviated as AIA Guidelines), is the 2006 Edition.)

The AIA Guidelines, 2006 Edition, Section 3.7-2.3.1.2 states "Class B operating rooms (intermediate surgical procedure rooms)

(1) Area and dimensions. These operating rooms shall have a minimum floor area of 250 square feet with a minimum clear dimension of 15 feet. This square footage and minimum dimension shall exclude vestibule and fixed casework."

RECEIVED

JUN 01 2011

DEPARTMENT OF LICENSURE AND CERTIFICATION  
LAS VEGAS, NEVADA

Stonecreek Surgery Center is a licensed, accredited and certified ambulatory surgery center. The surgery center was licensed by HCQC in October of 2008. The center received CMS certification through The Joint Commission deemed status in February of 2009. The surgery center initially performed a large number of endoscopic exams and has two procedure rooms dedicated to this to this function and one Class C operating room for other surgeries.

Over time, the patient mix has changed for the center and now the facility is performing a large number of eye surgeries. The facility is proposing to convert one of their endoscopy procedure rooms to a Class B operating room for eye surgery. The dimensions of the proposed Class B operating room meets the overall area requirement, but does not meet the minimum dimension requirement of 15 feet. There will be some minor construction associated with this change, to section off the endoscopy decontamination room and to ensure proper door placement for staff movement within the surgical suite.

The facility is requesting a variance to the width of the proposed Class B operating room. In order to meet the regulatory standard the width of the Class B operating room would need to be expanded approximately 1'10". This room is currently 13'2" x 23'6" (≈309 square feet) which exceeds the overall floor area requirement of 250 square feet.

The facility explained they cannot widen the Class B operating room because it abuts the other endoscopic procedure room on one side and expansion on the other side would encroach on the width of the sterile/sub-sterile corridor between the Class C and the proposed Class B operating rooms.

#### **INTENT OF THE REGULATION**

The intent of the regulation is to ensure there is sufficient floor space available to accommodate movement of necessary equipment and personnel to perform surgical procedures.

#### **EXCEPTIONAL AND UNDUE HARDSHIP**

The facility did not estimate the cost of construction but rather explains that expansion of the proposed Class B operating room is simply not feasible, due to the current facility design.

#### **DEGREE OF RISK TO HEALTH AND SAFETY**

Granting this variance would not impair the purpose of the regulation or cause detriment to the public welfare. The proposed Class B operating room exceeds the total floor area requirement and only minimally doesn't comply with the width requirement. There is sufficient area to accommodate equipment and personnel for surgical procedures.

#### **PUBLIC COMMENT RECEIVED**

None

#### **STAFF RECOMMENDATION**

Staff recommends that the Board of Health approve Case #645: Stonecreek Surgery Center: Request for Variance to NAC 449.9843(2), the "Guidelines for Design and Construction of Health Care Facilities" published by the American Institute of Architects (AIA), Outpatient Surgical Facilities 3.7, Section 2.3.1.2, Class B operating rooms, paragraph (1).

#### **PRESENTER:**

Paul Shubert, Health Facility Surveyor IV

Public Health: Working for a Safer and Healthier Nevada

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JUN 01 2011

BUREAU OF LICENSURE AND CERTIFICATION  
LAS VEGAS, NEVADA

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APR 25 2011

HEALTH DIVISION  
ADMINISTRATOR

NEVADA STATE BOARD OF HEALTH  
NEVADA STATE HEALTH DIVISION  
4150 Technology Way, Suite 300  
CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

☒

Division Administration  
(NAC 439, 441A, 452, 453A, & 629)

☐

Health Care Quality & Compliance  
(NAC 449, 457, 459 & 652)

☐

Child, Family & Community Wellness  
(NAC 392, 394, 432A, 439, 441A, & 442)

☐

Health Statistics, Planning &  
Emergency Response  
(NAC 440, 450B, 452, 453, 453A, & 695C)

☐

Frontier and Rural Health Services  
(NAC 211, 444, 446, 447, 583, & 585)

Date: 4/5/11

Name of Applicant: Cynthia Butt, RN Phone: 702-227-7959

Mailing Address: 5915 S. Rainbow Blvd Ste 108

City: Las Vegas State: NV Zip: 89118

We do hereby apply for a variance to chapter/section Guidelines for Design & Construction of Healthcare facilities, 2006 edit of the Nevada Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question: See attached

Statement of existing or proposed conditions in violation of the NAC:

The existing room is presently being used as an endoscopy suite that is going to be converted into a Class B operating room. The dimensions of the existing room are 13ft 2in X 23ft for a total square footage of 308 sq ft. The room width of 13ft 2in does not meet the width requirement of 15 ft minimum as required of Class B room  
Date of initial operation (if existing): 2008

**ATTENTION:** Please read this section closely. Your request for variance will be examined against these criteria:

**Stonecreek Surgery Center**

5915 S. Rainbow Blvd.

Suite 108

Las Vegas, NV 89118

Title of section in question:

Chapter 3.7 Outpatient Surgical Facility paragraph 2.3.1.2 Class B Operating Rooms.

Paragraph 1: Area and Dimensions: These operating rooms shall have a minimum floor area of 250 square feet with a minimum clear dimension of 15 feet.

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
  - (a) There are circumstances or conditions which:
    - (1) Are unique to the applicant;
    - (2) Do not generally affect other persons subject to the regulation;
    - (3) Make compliance with the regulation unduly burdensome; and
    - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
  - (b) Granting the variance:
    - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
    - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulation, he must submit evidence demonstrating the costs of his compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supportive of your variance request.

Statement of degree of risk of health There will be no risk to the patient because the room size of 308 sq ft is more than adequate for equipment and personnel. The patients are monitored by healthcare professionals (MDs, RNs) during the procedure which is necessary for Class B operating rooms.

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

The expansion of the facility is not feasible due to the facility design. The rooms surrounding this proposed "B" room can't be reduced in size as it would compromise their function.

2. The variance, if granted, would not:
  - A. Cause substantial detriment to the public welfare.

Making this procedure room into a Class B operating room would not in any way cause any substantial detriment to public welfare. It would actually allow the ASC to perform more cases and decrease patient wait times.

B. Impair substantially the purpose of the regulation from which the application seeks a variance.

The existing room size of 308 sq ft exceeds the minimum requirement of 250 sq ft required of a Class B operating room, providing more than enough room to perform procedures of a Class B room.

The bureau may require the following supporting documents to be submitted with and as a part of this application:

- \_\_\_\_\_ 1. Legal description of property concerned \_\_\_\_\_
- Attached 2. General area identification map
- \_\_\_\_\_ 3. Plat map showing locations of all pertinent items and appurtenances
- \_\_\_\_\_ 4. Well log (if applicable)
- \_\_\_\_\_ 5. Applicable lab reports
- Attached 6. Applicable engineering or construction/remodeling information (rough draft)
- \_\_\_\_\_ 7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application

and supporting documentation v  
the Board. Failure to respond t  
application at the requested Boar

Please schedule this hearing as:

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The next regularly sched

☐

The next scheduled meet

☐

The next scheduled meet

**PLEASE MAKE YC  
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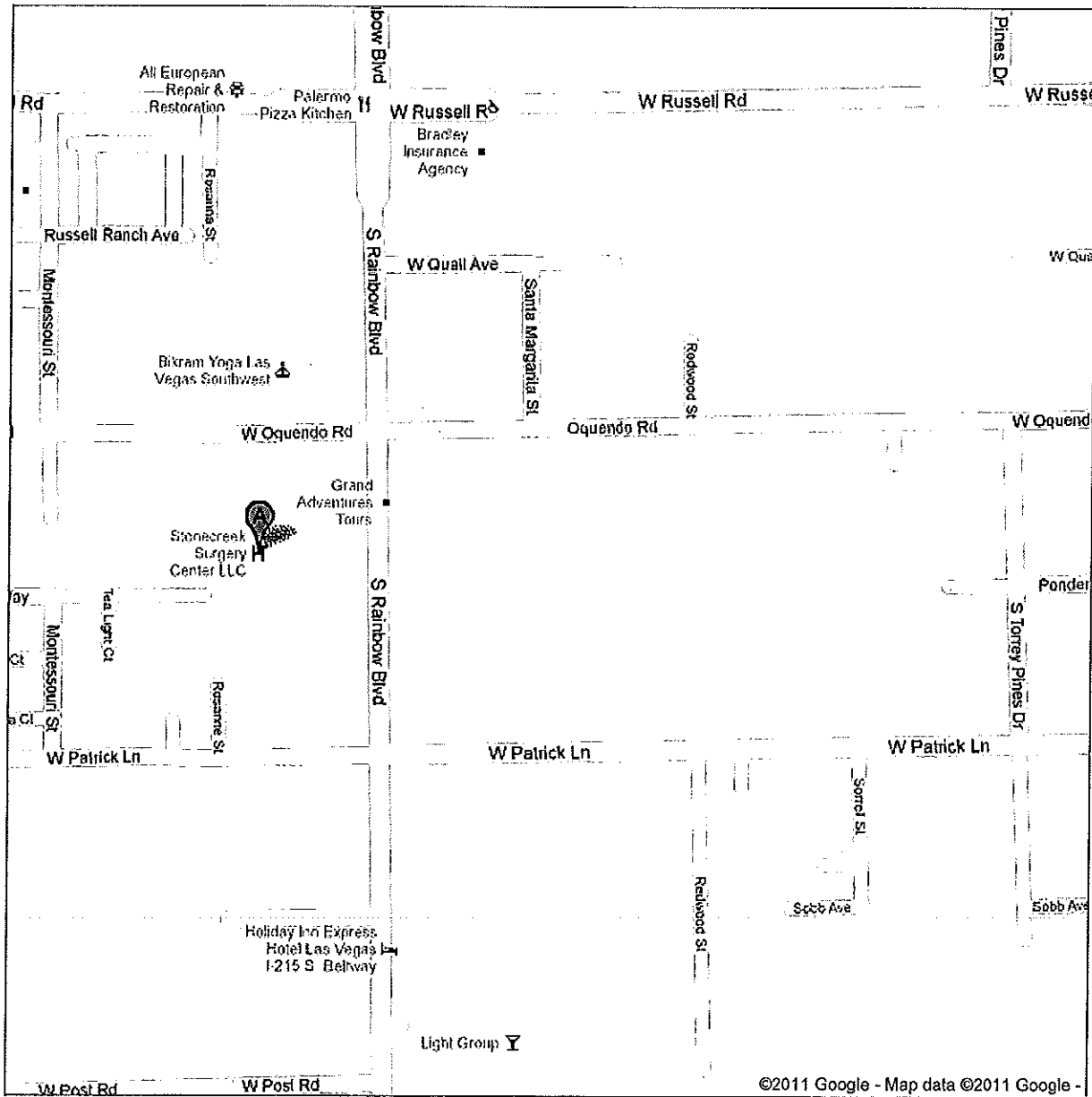
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Google maps

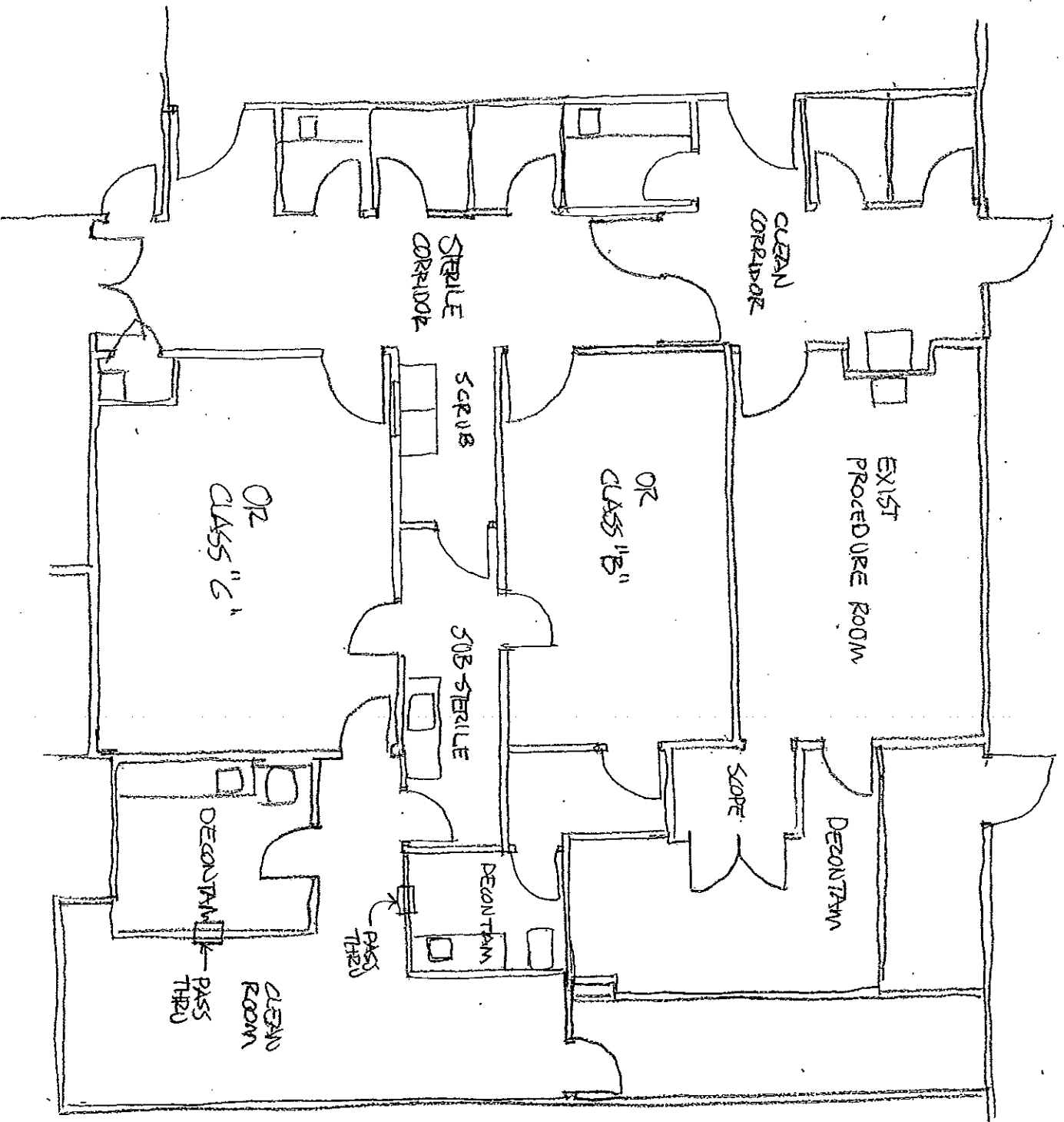
Address 5915 S Rainbow Blvd  
Las Vegas, NV 89118

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PROPOSED STONE CREEK SURGERY CENTER

3/10/11

N.T.S.

As of **October 7, 2010**, if the requested variance affects:

- A property, facility or other entity or person in **more than one County**

The fee to apply is based on the total cost to publish the notice of the request for a variance in the newspaper(s) of the area(s) affected.

Example: If a variance is being requested in Carson City that will also affect Washoe County, the fee is calculated as follows:

Nevada Appeal	\$267.00
Reno Gazette Journal	<u>\$150.00</u>
Total Fee=	\$417.00

Calculate  
based on  
instructions  
to the left

**\*Note: If the appropriate fee is not submitted with your variance application, you will be contacted by staff in order to collect the correct fee prior to proceeding with review of the variance request.**

Summary of Newspaper Variance Request Publishing Costs:

Elko Daily Free Press	\$107.00
Ely Times	\$171.00
Eureka Sentinel	\$137.00
Lahontan Valley News	\$152.00
Las Vegas Review-Journal/Las Vegas Sun	\$220.00
Mineral County Independent News	\$165.00
Nevada Appeal	\$267.00
Pahrump Valley Times	\$ 98.00
Record Courier	\$160.00
Reno Gazette Journal	\$150.00

← Pay this amt.

